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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE NEW YORK TIMES COMPANY,

Plaintiff,

v.

U.S. DEPARTMENT OF JUSTICE,

Defendant.

ANSWER

No. 21 Civ. 6073 (KPF)

Defendant the U.S. Department of Justice (“Defendant”), by its attorney, Audrey Strauss, United States Attorney for the Southern District of New York, answers the complaint of plaintiff The New York Times Company (“Plaintiff”) upon information and belief as follows:

1. Paragraph 1 is Plaintiff’s characterization of this action, to which no response is required. To the extent a response is deemed required, deny.

PARTIES

2. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2.

3. Defendant admits that it is an agency of the federal government and that it has possession and control of the records of the Special Counsel’s Office.

JURISDICTION AND VENUE

4. Paragraph 4 contains a statement of law to which no response is required.
5. Paragraph 5 contains a statement of law to which no response is required.
6. Paragraph 6 contains a statement of law to which no response is required.
7. Paragraph 7 contains statement of law to which no response is required.

FACTS

8. Admits and respectfully refers the Court to the cited document (Special Counsel, Robert S. Mueller, III, Report on the Investigation Into Russian Interference in the 2016 Presidential Election (the “Mueller Report”)) for a complete and accurate statement of its contents.

9. Admits and respectfully refers the Court to the Mueller Report for a complete and accurate statement of its contents.

10. Admits and respectfully refers the Court to the Mueller Report for a complete and accurate statement of its contents.

11. Defendant admits that Plaintiff has accurately quoted from the Mueller Report and respectfully refers the Court to the report for a complete and accurate statement of its contents.

12. Defendant admits that Special Counsel Mueller submitted the Mueller Report to Attorney General William Barr on March 22, 2019.

13. As to the first sentence of Paragraph 13, admits and respectfully refers the Court to the March 24, 2019 letter for a complete and accurate statement of its contents. As to the second sentence of Paragraph 13, admits that Plaintiff has accurately quoted from the cited

judicial opinion and respectfully refers the Court to that opinion for a complete and accurate statement of its contents.

14. The first sentence of Paragraph 14 contains Plaintiff's characterization of the Mueller Report, to which no response is required. As to Paragraph 14(a)-(c), Defendant admits that Plaintiff has accurately quoted from the Mueller Report and respectfully refers the Court to the report for a complete and accurate statement of its contents.

15. Defendant admits that Plaintiff has accurately quoted from the Mueller Report and respectfully refers the Court to the report for a complete and accurate statement of its contents.

16. Defendant denies that this quotation appears in the Mueller Report and respectfully refers the Court to the report for a complete and accurate statement of its contents.

17. Defendant admits that Plaintiff has accurately quoted from the Mueller Report and respectfully refers the Court to the report for a complete and accurate statement of its contents.

18. Defendant denies, but avers that the Mueller Report contains the sentence "The investigation also identified numerous links between the Russian government and the Trump Campaign," and avers that the report does not contain a conclusion as to whether those links constitute "collusion," and respectfully refers the Court to the report for a complete and accurate statement of its contents.

19. Admits and respectfully refers the Court to the report for a complete and accurate statement of its contents.

20. Defendant denies that Plaintiff submitted its FOIA request to the DOJ Office of Special Counsel and avers that the request was submitted to the Mail Referral Unit of

Defendant's Justice Management Division, but otherwise admits and respectfully refers the Court to the FOIA request for a complete and accurate statement of its contents.

21. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first sentence of Paragraph 21. The second sentence of Paragraph 21 is speculation about the contents of the record at issue in this FOIA case, to which no response is required. To the extent that a response is deemed required, denied.

22. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 22, which contains Plaintiff's view as to what the existence of a particular record "suggests."

23. Admits.

24. Denies, but avers that Defendant has not communicated with Plaintiff about this FOIA request outside of the context of this litigation since Defendant's February 12, 2021 response.

FIRST CAUSE OF ACTION

25. Defendant repeats, realleges, and reincorporates its responses to the allegations in the foregoing paragraphs as though fully set forth herein.

26. Paragraph 26 contains statements of law to which no response is required.

27. Paragraph 27 contains statements of law to which no response is required.

28. Paragraph 28 contains statements of law to which no response is required.

29. Denies.

30. Denies.

REQUEST FOR RELIEF

31. Paragraph 31 is part of Plaintiff's prayer for relief, to which no response is required. To the extent a response is required, Defendant denies that Plaintiff is entitled to the relief sought or any relief.

32. Paragraph 32 is part of Plaintiff's prayer for relief, to which no response is required. To the extent a response is required, Defendant denies that Plaintiff is entitled to the relief sought or any relief.

33. Paragraph 33 is part of Plaintiff's prayer for relief, to which no response is required. To the extent a response is required, Defendant denies that Plaintiff is entitled to the relief sought or any relief.

34. Paragraph 34 is part of Plaintiff's prayer for relief, to which no response is required. To the extent a response is required, Defendant denies that Plaintiff is entitled to the relief sought or any relief.

AFFIRMATIVE AND OTHER DEFENSES

Any allegations not specifically admitted, denied, or otherwise answered are hereby denied. For its further and separate defenses, Defendant alleges as follows:

FIRST DEFENSE

Some or all of the requested documents and information are exempt from disclosure. *See* 5 U.S.C. § 552(b); 8 U.S.C. § 1202(f).

SECOND DEFENSE

The Court lacks subject matter jurisdiction over Plaintiff's requests for relief that exceed the relief authorized under FOIA. 5 U.S.C. § 552.

THIRD DEFENSE

Defendant has exercised due diligence in processing Plaintiff's FOIA request and exceptional circumstances exist that necessitate additional time for Defendant to complete its processing of the FOIA request. *See* 5 U.S.C. § 552(a)(6)(C).

Defendant may have additional defenses which are not known at this time but which may become known through discovery. Accordingly, Defendant reserves the right to assert each and every affirmative or other defense that may be available, including any defenses available pursuant to Rules 8 and 12 of the Federal Rules of Civil Procedure.

WHEREFORE Defendant respectfully requests that the Court: (1) dismiss the Complaint with prejudice; (2) enter judgment in favor of Defendant; and (3) grant such further relief as the Court deems just and proper.

Date: New York, New York
August 23, 2021

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